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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,901	02/27/2002	Fatehali Dharssi	PW 243330	1192

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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/083,901

Applicant(s)

DHARSSI, FATEHALI

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/22/04; 03/29/04; 9/12/03; 2/13/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-20 have been examined. Application 10/083,901 (SYSTEM AND METHOD FOR TARGETED ADVERTISING AND MARKETING) has a filing date 02/27/2002 and is a continuation in part of 09689540 (10/12/2000; patent 6421986).

#### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No.

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6,421,986. Although the conflicting claims are not identical, they are not patentably distinct from each other because Pat 986 further recites a second data record containing a purchase order for a specific retailer and targeting a specific primary demographic group serviced by said retailer. Official notice is taken that it is old and well known in the business art that bread making facilities have expenses and would deliver bread to retailers that would purchase the bread to generate a profit. Furthermore, targeting a specific demographic group is old and well known in order marketing in order to increase sales. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to have included a second data record containing a purchase order for a specific retailer and targeting a specific primary demographic group serviced by said retailer to achieve the above mentioned advantage.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quigg (US 2003/0004732) in view of Jones (US 4,268,344).

As per claim 1, Quigg teaches:

A method for distributing, said method comprising:

- a. receiving, at a system operator central computer, a first data record containing promotional specifications for generating promotional materials (see paragraphs 29-31);
- b. receiving, at the system operator central computer, a second data record containing a purchase order for a specific retailer (see paragraphs 42 and 52).
- c. generating a first set of instructions for coordinating the daily production and packaging *paper products* (see paragraph 52);
- d. based on one or more of said first and second data records and first set of instructions, generating a second set of instructions for packaging said *paper products* (see paragraph 52); and
- e. based on one or more of said first and second data records and first set of instructions, generating a third set of instructions for including promotional materials with said package of *paper products* (see paragraphs 31, 43, 52).

Quigg does not expressly teach distributing the promotional material with a package of bread from a baking facility in which loaves of bread are baked, sliced, and packaged. However, Jones teaches a method of inserting promotional material into packages of bread (see column 1, lines 14-60). Also, Official notice is taken that it is old and well known in the marketing art that the cost of mailing advertisement and promotional materials usually represents a substantial portion of the costs associated with those materials. Even when advertisements and promotional materials are sent at bulk mail rates, the postage costs are substantial to separately mail advertisements and promotions. Inserting advertisements and promotional materials in magazine or product

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packages (see Applicant's specification page 3, lines 1-15) is one technique used to avoid (or at least lessen) the costs of mailing advertisements and promotions. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that advertisers would use the Quigg system to insert target promotions into loaf of bread, as taught by Jones because bread is shipped by bulk, and not by weight and the inclusion of promotional material with the bread would not increase shipping costs. Advertisers would have the benefit of targeting the promotions based upon geographic market location (see Quigg paragraph 31) and would insert the promotions into the bread vehicle (see Jones column 1, lines 15-40) to save in shipping costs.

As per claim 2, Quigg and Jones teach:

The method of claim 1, wherein, in step (d), said second set of instructions is transmitted to a bagging-system computer at the *paper product* facility, wherein said bagging system computer uses said second set of instructions to automatically control the operation of a bagging system located at the *paper product* facility (see Quigg paragraphs 42-43). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 2.

As per claim 3, Quigg and Jones teach:

The method of claim 2, wherein, in step (e), said third set of instructions is transmitted to a coupon-targeting system computer, wherein said coupon targeting system computer uses said third set of instructions to automatically control the operation of a coupon-targeting system for including promotional materials with said

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package of *paper products* (see Quigg paragraph 31). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 3.

As per claim 4, Quigg and Jones teach:

The method of claim 2, but does not expressly teach wherein said package of bread is placed on a cart for delivery to a specific retailer having a specific retail destination, the method further comprising transmitting a fourth set of instructions to a cart-marking system computer, said cart-marking system computer using said fourth set of instructions to generate an identification mark to be placed on said cart.

However, Official notice is taken that it is old and well known in the business art to mark products carts with machine and/or human readable identification. It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention was made to know that the paper product or packages of bread making facilities would mark carts instead of marking each single package of paper product or bread with the retailer destination. Because retailers order by bulk, the route driver would read the mark in a cart and would know that all the package of paper products that are in that cart are going to the same retailer. Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 4.

As per claim 5, Quigg and Jones teach:

The method of claim 4, wherein said identification mark includes one or more members selected from the group consisting of the number of *paper product* packages to be placed on said cart, the type of *paper product* to be placed on said cart, and the

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retail destination for said cart (see Quigg paragraph 31). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 5.

As per claim 6, Quigg and Jones teach:

The method of claim 5, but does not expressly teach wherein the identification mark is a bar code.

However, Official notice is taken that it is old and well known in the computer art to mark products with machine-readable barcodes. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that paper product-making facilities would mark paper products with barcodes as this would help expedite the delivery and identification process. Using barcodes to identify and track products is a faster and less prone to error method than the human readable one. Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 6.

As per claim 7, Quigg and Jones teach:

The method of claim 1, wherein, in step (c), said first set of instructions is generated by an onsite computer at the *paper product* facility (see Quigg paragraphs 42-43). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 7.

As per claim 8, Quigg and Jones teach:

The method of claim 1, wherein, in step (c), said first set of instructions is generated by a *paper product* facility central computer system (see Quigg paragraphs



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50-52). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 8.

As per claim 9, Quigg and Jones teach:

The method of claim 1, wherein the first data record is transmitted from a client's computer, and the system operator's central computer processes said first and second data records to generate said first set of instructions (see Quigg paragraphs 50-52).

As per claim 10, Quigg and Jones teach:

The method of claim 9, but does not expressly teach wherein the second data record is transmitted from a route driver's computer.

However, Official notice is taken that it is old and well known in the computer art to connect vehicles portable computers wirelessly to the Internet. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that if a specific retailer does not have access to a computer, a route driver would use his portable computer to connect to the web and place a purchase order in the name of said retailer.

As per claim 11, Quigg and Jones teach:

The method of claim 1, but does not expressly teach wherein the second set of instructions includes data to specify the wrapper to be used for bagging each *paper product*. However, Official notice is taken that it is old and well known in the business art to bag each paper product or a loaf of bread with a unique wrapper. It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention was made, to know that each paper product or loaf of bread would be bagged with a unique

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wrapper that would have indicia indicating the type of paper or bread, type of brand, etc. Without this unique indicia in the wrapper, customers would not be able to identify the product. Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 11.

As per claim 12, Quigg and Jones teach:

The method of claim 11, wherein the third set of instructions includes data that is used by the coupon-targeting system to automatically include a packet with each said package at the *paper product* facility based on one or more factors selected from the group consisting of the specific type of *paper product* to be packaged and a retail destination of said package of bread, wherein each said packet contains one or more pieces of said promotional material (see Quigg paragraph 31). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 12.

As per claim 13, Quigg and Jones teach:

The method of claim 12 wherein said packet is placed inside said package of *paper product* (see Quigg paragraph 39). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 13.

As per claim 14, Quigg and Jones teach:

A method for distributing promotional material, said method comprising:

- a. receiving a first data record from a client containing promotional specifications for generating promotional materials (see Quigg paragraphs 42-43);
- b. receiving a second data record containing a purchase order for a specific retailer (see Quigg paragraph 42).

c. based on one or more of said first and second data records, generating and transmitting a set of instructions to a bagging-system computer at the *paper product* facility, wherein said bagging-system computer uses said set of instructions to automatically control the operation of a bagging system located at the *paper product* facility (see Quigg figure 1);

d. according to said instructions, enclosing a plurality of *paper products* with respective, individual wrappers so as to result in a plurality of separate packages of *paper products* (see Quigg figure 1).

e. Quigg does not teach according to said instructions, enclosing two or more of said plurality of separate packages of paper products or bread with a third wrapper.

However, Official notice is taken that it is old and well known in the business art to enclose two or more separate packages of bread or paper products with a third wrapper. For example, Costco have been packaging two separate packages of bread with a third wrapper prior to Applicant's claimed invention. Also, Official notice is taken that it is old and well known in the business art to sell reams of paper products enclose with a third wrapper (i.e., box). For example, a Costco's customer can save money by buying reams of papers and packages of bread enclose with a third wrapper. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that distribution facilities would enclose two or more separate packages of bread and paper products with third wrappers as this would allow retailers to sell the said enclosed packages at a discount price, as taught by Costco. Advertisers would

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save money as they would use the additional advertisement space created by the third wrapper to insert more advertisements and promotions into said enclosed packages.

Quigg does not expressly teach distributing promotional material with packages of bread from a baking facility in which loaves of bread are baked, sliced, and packaged. However the same argument applied to claim 1 is applied to claim 14.

As per claim 15, Quigg and Jones teach:

The method of claim 14, further comprising instructing a coupon-targeting system computer, which automatically controls the operation of a coupon-targeting system at the *paper product* facility, to include promotional materials with each of said plurality of separate packages of *paper products* (see Quigg paragraph 31). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 15.

As per claim 16, Quigg and Jones teach:

The method of claim 15, wherein said promotional materials are placed inside said separate packages of *paper product* (see paragraph 39). Quigg does not teach a package of bread. However, the same argument made in claim 1 is applied to claim 16.

As per claim 17, Quigg and Jones do not expressly teach:

The method of claim 15, further comprising including additional promotional materials with said third wrapper. However, the same argument made in claim 14d is applied to claim 17.

As per claim 18, Quigg and Jones do not expressly teach:

The method of claim 17, wherein said additional promotional materials are placed inside said third wrapper. However, the same argument made in claim 14d is applied to claim 17.

As per claim 19, Quigg and Jones teach:

The method of claim 14, further comprising instructing a coupon-targeting system computer, which automatically controls the operation of a coupon-targeting system at the *paper product* facility to include promotional materials (see Quigg paragraph 31) but fails to teach with said third wrapper. However, the same argument made in claim 14d is applied to claim 19.

As per claim 20, Quigg and Jones teach:

The method of claim 19, but does not expressly teach wherein said promotional materials are placed inside said third wrapper. However, the same argument made in claim 14d is applied to claim 20.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Zorn teaches an advertising brochure and method for its use.
- Manizza teaches a bottle package with promotional card insert.
- Herz teaches a location enhanced information delivery system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

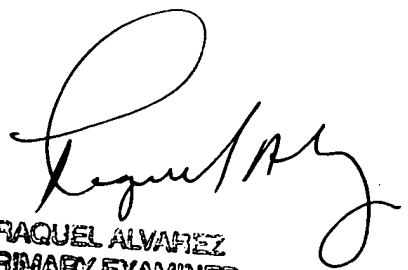
The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number 571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

March 12, 2005

  
RAQUEL ALVAHEZ  
PRIMARY EXAMINER